



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

WRIT PETITION NO.1690 OF 2018

(Chhabutai w/o Bhalchandra @ Bhalerao Dethe and anr. Vs. W.C.L. and anr.)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. P.D. Meghe, Advocate for the petitioners.
Mr. A.M. Ghare, Advocate for respondent Nos.1 and 2.

**CORAM : AVINASH G. GHAROTE &
URMILA JOSHI-PHALKE, JJ.**
DATED : AUGUST 30, 2023

Heard Mr. Meghe, learned Counsel for the petitioners and Mr. Ghare, learned Counsel for the respondents.

2. The petition questions the communication dated 07/11/2017 (page 44(A)) whereby the claim of the petitioner for being granted employment on account of the land of the mother of the petitioner being Survey No.1 admeasuring 1.21 H.R. at Juna Kunada, Tahsil Bhadrawati, District Chandrapur which came to be acquired by way of Notification under Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (for short "the Coal Bearing Act") dated 21/02/2004, has been rejected.

3. It is contended that in terms of the policy dated 25/08/2000 (page 17), the petitioner was entitled to nominate her daughter who was then unmarried, the

marriage have been taken place on 23/03/2004 for the purpose of employment. The judgment of this Court in ***Writ Petition No.3583/2012 (Ananta Rangnath Awari and ors. Vs. W.C.L. and ors.)*** decided on 18/12/2012 has been pressed into service. So also the communication dated 16/11/2021 by the W.C.L. which includes divorcee daughter in the definition of 'family' has also been pressed into service on account of petitioner No.2 having been divorced by her husband by the Decree of Divorce dated 24/08/2016. It is contended that thereafter there is a communication issued by the respondents indicating grant of employment to the persons whose land has been acquired under the aforesaid project by the communication dated 09/11/2015 (page 91). It is, therefore, contended that petitioner No.2, in spite of the fact that she has received monetary compensation against the package of employment in lieu of the claim for employment having deposited the amount in this Court to show her bonafides in pursuance to the order dated 31/03/2023, is entitled to be appointed under the policy.

4. Mr. Ghare, learned Counsel for the petitioners opposes the contention and submits that the petitioner No.2 was not covered by the Resettlement and Rehabilitation Policy of Coal India Ltd. dated 25/08/2000, and therefore, the rejection is proper.

5. It is not in dispute that the land of the petitioner No.1 being Survey No.1 admeasuring 1.21 H.R.

situated at village Juna Kunada, Tahsil Bhadrawati, District Chandrapur has been acquired by the respondents under the Notification dated 21/02/2004 issued under Section 9 of the Coal Bearing Act. The applicability of the Policy of the year 2000 is also not disputed. It is also not disputed that petitioner No.1 had at that point of time received the monetary compensation in lieu of employment and had also given a declaration to the respondents that she had no legal heirs entitled for employment (page 44(A)).

6. The judgment in Ananta Rangnath Awari and ors. Vs. W.C.L. and ors. (supra) has been passed on an admission by the respondents that in spite of the Policy of the year 2000, the employment was given to 31 persons who had not received the compensation in lieu of employment and this was so on the basis of a decision taken in the meeting dated 18/02/2004 wherein it was communicated that no employment will be provided. It is on this basis that the Court held that non-affording of an opportunity to the other owners whose land was acquired under the said notification will be discriminatory, and therefore, they would equally be entitled to an opportunity. What is material to note is that this Court in Ananta Rangnath Awari and ors. Vs. W.C.L. and ors. (supra) does not hold that such opportunity of an employment has to be granted dehors the Policy of 2000.

7. If the policy of 2000 is considered, the definition of family as contend therein in Clause 11 is material. The definition of family under Clause 11 is as follows :

“family” includes a person, his or her spouse, minor sons, unmarried daughters, minor brothers, unmarried sisters, father, mother and other relatives residing with him or here and dependent on him or her for their livelihood, and includes “nuclear family” consisting of a person, his or her spouse and minor children.’

8. It is necessary to note that the definition of ‘family’ does not include a divorced daughter. A divorced daughter only came to be included in the definition of ‘family’ in the Policy of the year 2012, that too with prospective effect and is indicated to be so by the communication dated 16/11/2021(page 103). Thus, the policy as it stood in the year 2004, which is the relevant time, did not include a divorced daughter. It is an admitted position that the daughter of petitioner No.1 i.e. petitioner No.2 was married on 23/03/2004. The Deed of Divorce placed on record is of the year 2016, which is under Section 13-B of the Hindu Marriage Act, 1955. The status of the petitioner No.2, therefore, as a divorcee in 2016 is post the new Rehabilitation and Resettlement (R&R) policy of the year 2012. It is therefore apparent, that the petitioner No.2 was clearly not covered within

definition of 'family' as occurring in the R&R policy of the year 2012. This being the position, any change in the policy would not accrue the benefit of the petitioner as the petitioners would be governed by the policy of the year 2000 and not of the year 2012.

9. In that light of the matter, we do not see any infirmity in the action on the part of the respondents in not considering the claim of the petitioners for grant of employment to petitioner No.2 under the policy of the year 2000.

10. The petition is therefore without any merits and is accordingly dismissed.

11. The amount deposited in this Court by the petitioners is permitted to be withdrawn with accrued interest if any.

(URMILA JOSHI-PHALKE, J.)

(AVINASH G. GHAROTE, J.)

**Divya*